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By: **Senators Middleton and Dyson**  
Introduced and read first time: February 7, 2003  
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements - Lot**  
3 **Exclusions and Allowable Economic Activity**

4 FOR the purpose of clarifying the range of uses and activities allowed on property  
5 with an agricultural land preservation easement; reducing the number of  
6 certain lots allowed to be excluded from an agricultural land preservation  
7 easement; authorizing a certain number of unrestricted lots to be excluded from  
8 an agricultural land preservation easement; establishing certain criteria and  
9 conditions for excluding an unrestricted lot from an agricultural land  
10 preservation easement; authorizing the exclusion of certain existing dwellings  
11 as a certain lot; and generally relating to the Maryland Agricultural Land  
12 Preservation Foundation.

13 BY repealing and reenacting, with amendments,  
14 Article - Agriculture  
15 Section 2-513  
16 Annotated Code of Maryland  
17 (1999 Replacement Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Agriculture**

21 2-513.

22 (a) Agricultural land preservation easements may be purchased under this  
23 subtitle for any land in agricultural use which meets the minimum criteria  
24 established under § 2-509 of this subtitle if the easement and county regulations  
25 governing the use of the land include the following provisions:

26 (1) Any farm use of land is permitted.

27 (2) Operation at any time of any machinery used in farm production or  
28 the primary processing of agricultural products is permitted.

1 (3) All normal agricultural operations performed in accordance with  
2 good husbandry practices which do not cause bodily injury or directly endanger  
3 human health are permitted including, but not limited to, sale of farm products  
4 produced on the farm where such sales are made.

5 (b) (1) Except as otherwise provided in this section, a landowner, whose land  
6 is subject to an easement, may not use the land for any commercial, industrial, or  
7 residential purpose, EXCEPT FOR FARM AND FOREST RELATED USES AND HOME  
8 OCCUPATIONS AS DETERMINED BY THE FOUNDATION.

9 (2) Except as provided in [paragraph (5)] PARAGRAPHS (3) AND (6) of this  
10 subsection, on written application, the Foundation shall release free of easement  
11 restrictions only for the landowner who originally sold an easement, 1 acre or less for  
12 the purpose of constructing a dwelling house for the use only of that landowner or  
13 child of the landowner, UP TO A MAXIMUM OF THREE, subject to the following  
14 conditions:

15 (i) The total number of lots allowed to be released under this  
16 section, except as provided in paragraph [(5)] (6) of this subsection, may not exceed  
17 [10] 3 lots of 1 acre or less at a maximum of not more than 1 lot for [each] THE FIRST  
18 FULL 20 acres [or portion thereof] AND 1 LOT FOR EACH ADDITIONAL FULL 50 ACRES.

19 (ii) The resulting density on the property may not exceed the  
20 density allowed under zoning of the property before the Foundation purchased the  
21 easement.

22 (iii) The landowner shall pay the State for any acre or portion  
23 released at the price per acre that the State paid the owner for the easement.

24 (iv) Before any conveyance or release, the landowner and the child,  
25 if there is a conveyance to a child, shall agree not to subdivide further for residential  
26 purposes any acreage allowed to be released. The agreement shall be recorded among  
27 the land records where the land is located and shall bind all future owners.

28 (v) After certifying that the landowner or child of the landowner  
29 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,  
30 the Foundation shall issue a preliminary release which shall:

31 1. Become final when the Foundation receives and certifies a  
32 nontransferable building permit in the name of the landowner or child of the  
33 landowner for construction of a dwelling house; or

34 2. Become void upon the death of the person for whose  
35 benefit the release was intended if the Foundation has not yet received a building  
36 permit as provided in this subparagraph.

37 (vi) Any release or preliminary release issued under this paragraph  
38 shall include a statement of the conditions under which it was issued, a certification  
39 by the Foundation that all necessary conditions for release or preliminary release  
40 have been met, and copies of any pertinent documents.

1 (vii) Any release, preliminary release, building permit, or other  
2 document issued or submitted in accordance with this paragraph shall be recorded  
3 among the land records where the land is located and shall bind all future owners.

4 (viii) The Foundation may not restrict the ability of a landowner who  
5 originally sold an easement to acquire a release under this paragraph beyond the  
6 requirements provided in this section.

7 (3) A LANDOWNER MAY RESERVE THE RIGHT TO EXCLUDE 1  
8 UNRESTRICTED LOT FROM AN EASEMENT IN LIEU OF ALL OWNER'S AND CHILDREN'S  
9 LOTS TO WHICH THE LANDOWNER WOULD OTHERWISE BE ENTITLED UNDER  
10 PARAGRAPH (2) OF THIS SUBSECTION, SUBJECT TO THE FOLLOWING CONDITIONS:

11 (I) THE RESULTING DENSITY ON THE PROPERTY SHALL BE LESS  
12 THAN THE DENSITY ALLOWED UNDER ZONING OF THE PROPERTY BEFORE THE  
13 FOUNDATION PURCHASED THE EASEMENT;

14 (II) AN UNRESTRICTED LOT MAY BE SUBDIVIDED BY THE  
15 LANDOWNER FROM THE EASEMENT AND SOLD TO ANYONE TO CONSTRUCT ONE  
16 RESIDENTIAL DWELLING;

17 (III) THE SIZE OF AN UNRESTRICTED LOT SHALL BE 1 ACRE OR LESS,  
18 EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION;

19 (IV) THE LANDOWNER SHALL AGREE NOT TO SUBDIVIDE FURTHER  
20 FOR RESIDENTIAL PURPOSES ANY ACREAGE ALLOWED TO BE RELEASED, AND THE  
21 AGREEMENT SHALL BE RECORDED AMONG THE LAND RECORDS WHERE THE LAND IS  
22 LOCATED AND SHALL BIND ALL FUTURE OWNERS;

23 (V) THE RIGHT TO THE LOT IS TAKEN INTO CONSIDERATION IN THE  
24 APPRAISAL OF FAIR MARKET VALUE AND DETERMINATION OF EASEMENT VALUE;

25 (VI) THE LOT CAN BE SUBDIVIDED AT ANY TIME AND THE  
26 LOCATION OF THE LOT TO BE SUBDIVIDED IS SUBJECT TO THE APPROVAL OF THE  
27 LOCAL AGRICULTURAL ADVISORY BOARD AND THE FOUNDATION; AND

28 (VII) IF THE PROPERTY IS TRANSFERRED BEFORE THE RIGHT TO  
29 EXCLUDE THE LOT HAS BEEN EXERCISED, THE RIGHT MAY BE TRANSFERRED WITH  
30 THE PROPERTY.

31 [(3)] (4) A landowner may construct housing for tenants fully engaged in  
32 operation of the farm, but this construction may not exceed 1 tenant house per 100  
33 acres. The land on which a tenant house is constructed may not be subdivided or  
34 conveyed to any person. In addition, the tenant house may not be conveyed separately  
35 from the original parcel.

36 [(4)] (5) Except as provided in paragraph [(5)] (6) of this subsection, on  
37 request to the Foundation, an owner may exclude from the easement restrictions 1  
38 acre per each single dwelling, which existed at the time of the sale of the easement, AS  
39 AN OWNER'S, CHILDREN'S, OR UNRESTRICTED LOT TO WHICH THE OWNER IS

1 ENTITLED UNDER PARAGRAPH (2) OF THIS SUBSECTION, by a land survey and  
2 recordation provided at the expense of the owner. However, before any exclusion is  
3 granted, an owner shall agree with the Foundation not to subdivide further for  
4 residential purposes any acreage allowed to be released. This agreement shall be  
5 recorded among the land records where the land is located and shall bind all future  
6 owners.

7                    [(5)]    (6)    (i)            The restrictions of paragraphs (2) and [4] (5) of this  
8 subsection concerning maximum lot sizes are altered so that the maximum lot size is  
9 2 acres if:

10                                    1.            Regulations adopted by the Department of the  
11 Environment require a minimum lot size for a dwelling house of not less than 2 acres  
12 in areas where there is less than 4 feet of unsaturated and unconsolidated soil  
13 material below the bottom of an on-site sewage disposal system or in areas located  
14 within 2,500 feet of the normal water level of an existing or proposed water supply  
15 reservoir; or

16                                    2.            Regulations adopted by the jurisdiction in which the land  
17 is situated require that a lot for a dwelling house be larger than 1 acre.

18                                    (ii)        For exclusions provided under paragraph [(4)] (5) of this  
19 subsection, the landowner shall pay the State for any acre or portion released in  
20 excess of the 1 acre per single dwelling that existed at the time of easement.

21            (c)            Purchase of an easement by the Foundation does not grant the public any  
22 right of access or right of use of the subject property.

23            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2003.